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(Original Signature of Member)

107TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. ARMEY, Mr. STENHOLM, Mr. HYDE, Mr. DOOLEY of California, Mr. BRYANT, Mr. HOLDEN, Mr. COX, Mr. CHABOT, [see attached list]) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28,



United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 **SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CON-**
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Class Action Fairness Act of 2001”.

7 (b) REFERENCE.—Whenever in this Act reference is
8 made to an amendment to, or repeal of, a section or other
9 provision, the reference shall be considered to be made to
10 a section or other provision of title 28, United States
11 Code.

12 (c) TABLE OF CONTENTS.—The table of contents for
13 this Act is as follows:

- Sec. 1. Short title; reference; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
- Sec. 4. Federal district court jurisdiction of interstate class actions.
- Sec. 5. Removal of interstate class actions to Federal district court.
- Sec. 6. Appeals of class action certification orders.
- Sec. 7. Effective date.

14 **SEC. 2. FINDINGS AND PURPOSES.**

15 (a) FINDINGS.—The Congress finds as follows:

16 (1) Class action lawsuits are an important and
17 valuable part of our legal system when they permit
18 the fair and efficient resolution of legitimate claims
19 of numerous parties by allowing the claims to be ag-



1 gregated into a single action against a defendant
2 that has allegedly caused harm.

3 (2) Over the past decade, there have been
4 abuses of the class action device that have harmed
5 class members with legitimate claims and defendants
6 that have acted responsibly, and that have thereby
7 undermined public respect for our judicial system.

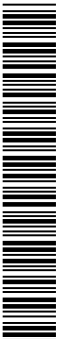
8 (3) Class members have been harmed by a
9 number of actions taken by plaintiffs' lawyers, which
10 provide little or no benefit to class members as a
11 whole, including—

12 (A) plaintiffs' lawyers receiving large fees,
13 while class members are left with coupons or
14 other awards of little or no value;

15 (B) unjustified rewards being made to cer-
16 tain plaintiffs at the expense of other class
17 members; and

18 (C) the publication of confusing notices
19 that prevent class members from being able to
20 fully understand and effectively exercise their
21 rights.

22 (4) Through the use of artful pleading, plain-
23 tiffs are able to avoid litigating class actions in Fed-
24 eral court, forcing businesses and other organiza-



1 tions to defend interstate class action lawsuits in
2 county and State courts where—

3 (A) the lawyers, rather than the claimants,
4 are likely to receive the maximum benefit;

5 (B) less scrutiny may be given to the mer-
6 its of the case; and

7 (C) defendants are effectively forced into
8 settlements, in order to avoid the possibility of
9 huge judgments that could destabilize their
10 companies.

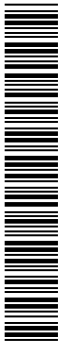
11 (5) These abuses undermine our Federal system
12 and the intent of the framers of the Constitution in
13 creating diversity jurisdiction, in that county and
14 State courts are—

15 (A) handling interstate class actions that
16 affect parties from many States;

17 (B) sometimes acting in ways that dem-
18 onstrate bias against out-of-State defendants;
19 and

20 (C) making judgments that impose their
21 view of the law on other States and bind the
22 rights of the residents of those States.

23 (6) Abusive interstate class actions have
24 harmed society as a whole by forcing innocent par-
25 ties to settle cases rather than risk a huge judgment



1 by a local jury, thereby costing consumers billions of
2 dollars in increased costs to pay for forced settle-
3 ments and excessive judgments.

4 (b) PURPOSES.—The purposes of this Act are—

5 (1) to assure fair and prompt recoveries for
6 class members with legitimate claims;

7 (2) to protect responsible companies and other
8 institutions against interstate class actions in State
9 courts;

10 (3) to restore the intent of the framers of the
11 Constitution by providing for Federal court consider-
12 ation of interstate class actions; and

13 (4) to benefit society by encouraging innovation
14 and lowering consumer prices.

15 **SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IM-**
16 **PROVED PROCEDURES FOR INTERSTATE**
17 **CLASS ACTIONS.**

18 (a) IN GENERAL.—Part V is amended by inserting
19 after chapter 113 the following:

20 **“CHAPTER 114—CLASS ACTIONS**

“Sec.

“1711. Judicial scrutiny of coupon and other noncash settlements.

“1712. Protection against loss by class members.

“1713. Protection against discrimination based on geographic location.

“1714. Prohibition on the payment of bounties.

“1715. Clearer and simpler settlement information.

“1716. Pleading requirements for class actions.

“1717. Definitions.



1 **“§ 1711. Judicial scrutiny of coupon and other**
2 **noncash settlements**

3 “The court may approve a proposed settlement under
4 which the class members would receive noncash benefits
5 or would otherwise be required to expend funds in order
6 to obtain part or all of the proposed benefits only after
7 a hearing to determine whether, and making a written
8 finding that, the settlement is fair, reasonable, and ade-
9 quate for class members.

10 **“§ 1712. Protection against loss by class members**

11 “The court may approve a proposed settlement under
12 which any class member is obligated to pay sums to class
13 counsel that would result in a net loss to the class member
14 only if the court makes a written finding that nonmone-
15 tary benefits to the class member outweigh the monetary
16 loss.

17 **“§ 1713. Protection against discrimination based on**
18 **geographic location**

19 “The court may not approve a proposed settlement
20 that provides for the payment of greater sums to some
21 class members than to others solely on the basis that the
22 class members to whom the greater sums are to be paid
23 are located in closer geographic proximity to the court.

24 **“§ 1714. Prohibition on the payment of bounties**

25 “(a) IN GENERAL.—The court may not approve a
26 proposed settlement that provides for the payment of a



1 greater share of the award to a class representative serv-
2 ing on behalf of a class, on the basis of the formula for
3 distribution to all other class members, than that awarded
4 to the other class members.

5 “(b) RULE OF CONSTRUCTION.—The limitation in
6 subsection (a) shall not be construed to prohibit any pay-
7 ment approved by the court for reasonable time or costs
8 that a person was required to expend in fulfilling his or
9 her obligations as a class representative.

10 **“§ 1715. Clearer and simpler settlement information**

11 “(a) PLAIN ENGLISH REQUIREMENTS.—Any court
12 with jurisdiction over a plaintiff class action shall require
13 that any written notice concerning a proposed settlement
14 of the class action provided to the class through the mail
15 or publication in printed media contain—

16 “(1) at the beginning of such notice, a state-
17 ment in 18-point Times New Roman type or other
18 functionally similar type, stating ‘LEGAL NOTICE:
19 YOU ARE A PLAINTIFF IN A CLASS ACTION
20 LAWSUIT AND YOUR LEGAL RIGHTS ARE
21 AFFECTED BY THE SETTLEMENT DE-
22 SCRIBED IN THIS NOTICE.’;

23 “(2) a short summary written in plain, easily
24 understood language, describing—

25 “(A) the subject matter of the class action;



1 “(B) the members of the class;

2 “(C) the legal consequences of being a
3 member of the class;

4 “(D) if the notice is informing class mem-
5 bers of a proposed settlement agreement—

6 “(i) the benefits that will accrue to
7 the class due to the settlement;

8 “(ii) the rights that class members
9 will lose or waive through the settlement;

10 “(iii) obligations that will be imposed
11 on the defendants by the settlement;

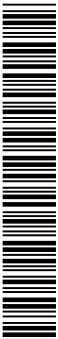
12 “(iv) the dollar amount of any attor-
13 ney’s fee class counsel will be seeking, or
14 if not possible, a good faith estimate of the
15 dollar amount of any attorney’s fee class
16 counsel will be seeking; and

17 “(v) an explanation of how any attor-
18 ney’s fee will be calculated and funded;
19 and

20 “(E) any other material matter.

21 “(b) TABULAR FORMAT.—Any court with jurisdiction
22 over a plaintiff class action shall require that the informa-
23 tion described in subsection (a)—

24 “(1) be placed in a conspicuous and prominent
25 location on the notice;



1 “(2) contain clear and concise headings for
2 each item of information; and

3 “(3) provide a clear and concise form for stat-
4 ing each item of information required to be disclosed
5 under each heading.

6 “(c) TELEVISION OR RADIO NOTICE.—Any notice
7 provided through television or radio (including trans-
8 missions by cable or satellite) to inform the class members
9 in a class action of the right of each member to be ex-
10 cluded from the class action or a proposed settlement of
11 the class action, if such right exists, shall, in plain, easily
12 understood language—

13 “(1) describe the persons who may potentially
14 become class members in the class action; and

15 “(2) explain that the failure of a class member
16 to exercise his or her right to be excluded from a
17 class action will result in the person’s inclusion in
18 the class action or settlement.

19 **“§ 1716. Pleading requirements for class actions**

20 “(a) PARTICULARITY.—In each class action, the com-
21 plaint shall specify with particularity the nature and
22 amount of all relief sought on behalf of any class member,
23 and the nature of the injury allegedly caused to members
24 of the class.



1 “(b) STATE OF MIND.—In any class action in which
2 a claim is asserted on which the plaintiff may prevail only
3 on proof that the defendant acted with a particular state
4 of mind, the complaint shall, with respect to each act or
5 failure to act alleged to give rise to liability, state with
6 particularity facts which, if proven, will demonstrate that
7 the defendant acted with the required state of mind.

8 “(c) MOTION TO DISMISS; STAY OF DISCOVERY.—

9 “(1) DISMISSAL FOR FAILURE TO MEET PLEAD-
10 ING REQUIREMENTS.—In any class action, the court
11 shall, on the motion of any defendant, dismiss the
12 complaint if the requirements of subsections (a) or
13 (b) are not met.

14 “(2) STAY OF DISCOVERY.—In any class action,
15 all discovery and other proceedings shall be stayed
16 during the pendency of any motion to dismiss or mo-
17 tion for judgment on the pleadings, unless the court
18 finds upon the motion of any party that specific dis-
19 covery is necessary to preserve evidence or to pre-
20 vent undue prejudice to that party.

21 **“§ 1717. Definitions**

22 “In this chapter—

23 “(1) CLASS ACTION.—The term ‘class action’
24 means any civil action filed in a district court of the
25 United States pursuant to rule 23 of the Federal



1 Rules of Civil Procedure or any civil action that is
 2 removed to a district court of the United States that
 3 was originally filed pursuant to a State statute or
 4 rule of judicial procedure authorizing an action to be
 5 brought by one or more representatives on behalf of
 6 a class.

7 “(2) CLASS COUNSEL.—The term ‘class coun-
 8 sel’ means the persons who serve as the attorneys
 9 for the class members in a proposed or certified
 10 class action.

11 “(3) CLASS MEMBERS.—The term ‘class mem-
 12 bers’ means the persons who fall within the defini-
 13 tion of the proposed or certified class in a class ac-
 14 tion.

15 “(4) PLAINTIFF CLASS ACTION.—The term
 16 ‘plaintiff class action’ means a class action in which
 17 class members are plaintiffs.

18 “(5) PROPOSED SETTLEMENT.—The term ‘pro-
 19 posed settlement’ means an agreement that resolves
 20 claims in a class action, that is subject to court ap-
 21 proval and that, if approved, would be binding on
 22 the class members.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 24 The table of chapters for part V is amended by inserting
 25 after the item relating to chapter 113 the following:

“114. Class Actions 1711.”.

1 **SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF**
2 **INTERSTATE CLASS ACTIONS.**

3 (a) APPLICATION OF FEDERAL DIVERSITY JURISDIC-
4 TION.—Section 1332 is amended—

5 (1) by redesignating subsection (d) as sub-
6 section (e); and

7 (2) by inserting after subsection (c) the fol-
8 lowing:

9 “(d)(1) In this subsection—

10 “(A) the term ‘class’ means all of the class
11 members in a class action;

12 “(B) the term ‘class action’ means any civil ac-
13 tion filed pursuant to rule 23 of the Federal Rules
14 of Civil Procedure or similar State statute or rule of
15 judicial procedure authorizing an action to be
16 brought by one or more representative persons on
17 behalf of a class;

18 “(C) the term ‘class certification order’ means
19 an order issued by a court approving the treatment
20 of a civil action as a class action; and

21 “(D) the term ‘class members’ means the per-
22 sons who fall within the definition of the proposed
23 or certified class in a class action.

24 “(2) The district courts shall have original jurisdic-
25 tion of any civil action in which the matter in controversy



1 exceeds the sum or value of \$2,000,000, exclusive of inter-
2 est and costs, and is a class action in which—

3 “(A) any member of a class of plaintiffs is a
4 citizen of a State different from any defendant;

5 “(B) any member of a class of plaintiffs is a
6 foreign state or a citizen or subject of a foreign state
7 and any defendant is a citizen of a State; or

8 “(C) any member of a class of plaintiffs is a
9 citizen of a State and any defendant is a foreign
10 state or a citizen or subject of a foreign state.

11 “(3) Paragraph (2) shall not apply to any civil action
12 in which—

13 “(A)(i) the substantial majority of the members
14 of the proposed plaintiff class and the primary de-
15 fendants are citizens of the State in which the action
16 was originally filed; and

17 “(ii) the claims asserted therein will be gov-
18 erned primarily by the laws of the State in which the
19 action was originally filed;

20 “(B) the primary defendants are States, State
21 officials, or other governmental entities against
22 whom the district court may be foreclosed from or-
23 dering relief; or

24 “(C) the number of proposed plaintiff class
25 members is less than 100.



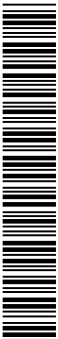
1 “(4) In any class action, the claims of the individual
2 class members shall be aggregated to determine whether
3 the matter in controversy exceeds the sum or value of
4 \$2,000,000, exclusive of interest and costs.

5 “(5) This subsection shall apply to any class action
6 before or after the entry of a class certification order by
7 the court with respect to that action.

8 “(6)(A) A district court shall dismiss any civil action
9 that is subject to the jurisdiction of the court solely under
10 this subsection if the court determines the action may not
11 proceed as a class action based on a failure to satisfy the
12 requirements of rule 23 of the Federal Rules of Civil Pro-
13 cedure.

14 “(B) Nothing in subparagraph (A) shall prohibit
15 plaintiffs from filing an amended class action in Federal
16 court or filing an action in State court, except that any
17 such action filed in State court may be removed to the
18 appropriate district court if it is an action of which the
19 district courts of the United States have original jurisdic-
20 tion.

21 “(C) In any action that is dismissed under this para-
22 graph and is filed by any of the original named plaintiffs
23 therein in the same State court venue in which the dis-
24 missed action was originally filed, the limitations periods
25 on all reasserted claims shall be deemed tolled for the pe-



1 riord during which the dismissed class action was pending.
2 The limitations periods on any claims that were asserted
3 in a class action dismissed under this paragraph that are
4 subsequently asserted in an individual action shall be
5 deemed tolled for the period during which the dismissed
6 action was pending.

7 “(7) Paragraph (2) shall not apply to any class action
8 brought by shareholders that solely involves a claim that
9 relates to—

10 “(A) a claim concerning a covered security as
11 defined under section 16(f)(3) of the Securities Act
12 of 1933 and section 28(f)(5)(E) of the Securities
13 Exchange Act of 1934;

14 “(B) the internal affairs or governance of a cor-
15 poration or other form of business enterprise and
16 arises under or by virtue of the laws of the State in
17 which such corporation or business enterprise is in-
18 corporated or organized; or

19 “(C) the rights, duties (including fiduciary du-
20 ties), and obligations relating to or created by or
21 pursuant to any security (as defined under section
22 2(a)(1) of the Securities Act of 1933 and the regula-
23 tions issued thereunder).

24 “(8) For purposes of this subsection and section
25 1453 of this title, an unincorporated association shall be



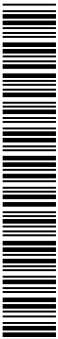
1 deemed to be a citizen of the State where it has its prin-
2 cipal place of business and the State under whose laws
3 it is organized.

4 “(9) For purposes of this section and section 1453
5 of this title, a civil action that is not otherwise a class
6 action as defined in paragraph (1)(B) of this subsection
7 shall nevertheless be deemed a class action if—

8 “(A) the named plaintiff purports to act for the
9 interests of its members (who are not named parties
10 to the action) or for the interests of the general pub-
11 lic, seeks a remedy of damages, restitution,
12 disgorgement, or any other form of monetary relief,
13 and is not a State attorney general; or

14 “(B) monetary relief claims in the action are
15 proposed to be tried jointly in any respect with the
16 claims of 100 or more other persons on the ground
17 that the claims involve common questions of law or
18 fact.

19 In any such case, the persons who allegedly were injured
20 shall be treated as members of a proposed plaintiff class
21 and the monetary relief that is sought shall be treated as
22 the claims of individual class members. The provisions of
23 paragraphs (3) and (6) of this subsection and subsections
24 (b)(2) and (d) of section 1453 shall not apply to civil ac-
25 tions described under subparagraph (A). The provisions



1 of paragraph (6) of this subsection, and subsections (b)(2)
2 and (d) of section 1453 shall not apply to civil actions
3 described under subparagraph (B).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 1335(a)(1) is amended by inserting
6 “(a) or (d)” after “1332”.

7 (2) Section 1603(b)(3) is amended by striking
8 “(d)” and inserting “(e)”.

9 **SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FED-**
10 **ERAL DISTRICT COURT.**

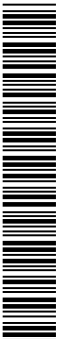
11 (a) IN GENERAL.—Chapter 89 is amended by adding
12 after section 1452 the following:

13 **“§ 1453. Removal of class actions**

14 “(a) DEFINITIONS.—In this section, the terms ‘class’,
15 ‘class action’, ‘class certification order’, and ‘class mem-
16 ber’ have the meanings given these terms in section
17 1332(d)(1).

18 “(b) IN GENERAL.—A class action may be removed
19 to a district court of the United States in accordance with
20 this chapter, without regard to whether any defendant is
21 a citizen of the State in which the action is brought, except
22 that such action may be removed—

23 “(1) by any defendant without the consent of
24 all defendants; or



1 “(2) by any plaintiff class member who is not
2 a named or representative class member without the
3 consent of all members of such class.

4 “(c) WHEN REMOVABLE.—This section shall apply to
5 any class action before or after the entry of a class certifi-
6 cation order in the action.

7 “(d) PROCEDURE FOR REMOVAL.—The provisions of
8 section 1446 relating to a defendant removing a case shall
9 apply to a plaintiff removing a case under this section,
10 except that in the application of subsection (b) of such
11 section the requirement relating to the 30-day filing period
12 shall be met if a plaintiff class member files notice of re-
13 moval within 30 days after receipt by such class member,
14 through service or otherwise, of the initial written notice
15 of the class action.

16 “(e) REVIEW OF ORDERS REMANDING CLASS AC-
17 TIONS TO STATE COURTS.—The provisions of section
18 1447 shall apply to any removal of a case under this sec-
19 tion, except that, notwithstanding the provisions of section
20 1447(d), an order remanding a class action to the State
21 court from which it was removed shall be reviewable by
22 appeal or otherwise.

23 “(f) EXCEPTION.—This section shall not apply to any
24 class action brought by shareholders that solely involves—



1 “(1) a claim concerning a covered security as
2 defined under section 16(f)(3) of the Securities Act
3 of 1933 and section 28(f)(5)(E) of the Securities
4 Exchange Act of 1934;

5 “(2) a claim that relates to the internal affairs
6 or governance of a corporation or other form of busi-
7 ness enterprise and arises under or by virtue of the
8 laws of the State in which such corporation or busi-
9 ness enterprise is incorporated or organized; or

10 “(3) a claim that relates to the rights, duties
11 (including fiduciary duties), and obligations relating
12 to or created by or pursuant to any security (as de-
13 fined under section 2(a)(1) of the Securities Act of
14 1933 and the regulations issued thereunder).”.

15 (b) REMOVAL LIMITATION.—Section 1446(b) is
16 amended in the second sentence by inserting “(a)” after
17 “section 1332”.

18 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
19 The table of sections for chapter 89 is amended by adding
20 after the item relating to section 1452 the following:

“1453. Removal of class actions.”.

21 **SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION OR-**
22 **DERs.**

23 (a) IN GENERAL.—Section 1292(a) is amended by in-
24 serting after paragraph (3) the following:



1 “(4) Orders of the district courts of the United
2 States granting or denying class certification under
3 rule 23 of the Federal Rules of Civil Procedure, if
4 notice of appeal is filed within 10 days after entry
5 of the order.”.

6 (b) DISCOVERY STAY.—All discovery and other pro-
7 ceedings shall be stayed during the pendency of any appeal
8 taken pursuant to the amendment made by subsection (a),
9 unless the court finds upon the motion of any party that
10 specific discovery is necessary to preserve evidence or to
11 prevent undue prejudice to that party.

12 **SEC. 7. EFFECTIVE DATE.**

13 The amendments made by this Act shall apply to any
14 civil action commenced on or after the date of the enact-
15 ment of this Act.

